UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America,

-v-

Gary Thomas,

Defendant.

13-cr-360 (AJN)

ORDER

ALISON J. NATHAN, Circuit Judge, sitting by designation:

On September 13, 2022, the Court received a letter from Defendant Gary Thomas, dated September 6, 2022, requesting “that the Federal Public Defender’s Office be appointed to assist [him] in moving the Court into having the U.S. Probation Officer append” the Court’s findings sustaining Mr. Thomas’s objection to application of a two-level sentencing enhancement for a credible threat to use violence pursuant to U.S.S.G. § 2D1.1(b)(2) “to [his] PSR and forward same to the BOP so [he] can appeal or request the reconsideration of [his] application for home confinement placement under the CARES Act.” Dkt. No. 409. On October 7, 2022, the Government filed a letter noting that it does not object to Mr. Thomas’s request that the U.S. Probation Office amend the PSR to reflect the Court’s findings that the credible threat enhancement does not apply and takes no position on Mr. Thomas’s request that a Federal Defender be appointed. Dkt. No. 413.

Mr. Thomas’s request that the PSR be amended to reflect the Court’s findings at sentencing is GRANTED as unopposed. *See* Dkt. No. 300 at 9–10 (the Court explaining at sentencing that “although . . . the inference of the threat is available, it is not the only inference” and “the inference alone does not . . . establish by a preponderance of the evidence that Mr.

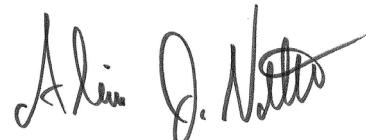
Thomas was credibly threatening Mr. Jackson with violence,” and accordingly “conclud[ing] that this enhancement [for credible threat to use violence pursuant to § 2D1.1(b)(2)] does not apply”).

Mr. Thomas’s request for the appointment of a Federal Defender to assist him in effectuating the amendment of the PSR is likewise GRANTED as unopposed. The Court hereby appoints Federal Defenders of New York, Inc. to represent Mr. Thomas in this matter and to propose an order effectuating the relief Mr. Thomas seeks with respect to the PSR. The Federal Defenders shall also assist Mr. Thomas in the filing of a financial affidavit, which shall be submitted to the Court on or before **October 25, 2022**.

The Clerk of Court is respectfully directed to mail a copy of this Order to Mr. Thomas and to note the mailing on the public docket. The Court will forward a copy of this order to Jennifer Brown, the Attorney-In-Charge of the SDNY Office of the Federal Defenders of New York.

SO ORDERED.

Dated: October 11, 2022
New York, New York



ALISON J. NATHAN
United States Circuit Judge,
sitting by designation